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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	MM Docket No. 99-25
)	
Creation of a Low)	RM-9208
Power Radio Service)	RM-9242

To: The Commission

**COMMENTS OF THE CURATORS OF THE UNIVERSITY OF
MISSOURI ON NOTICE OF PROPOSED RULE MAKING**

The Curators of the University of Missouri, a public corporation (hereinafter "The Curators" or "the University"), the licensee of noncommercial educational FM stations KBIA, Columbia, Missouri, KWMU, St. Louis, Missouri, KCUR, Kansas City, Missouri, KUMR, Rolla, Missouri, KMNR, Rolla, Missouri and KCOU, Columbia, Missouri, by its attorneys, hereby submit its comments concerning the Notice of Proposed Rule Making ("NPRM"), FCC 99-6, released by the Commission in the above-referenced proceeding on February 3, 1999.

I. INTRODUCTION

1. The University of Missouri is the state university of Missouri, established by Article IX, Section 9 of the Missouri Constitution, and governed by a Board of Curators whose members are appointed by the Governor and confirmed by the State. The University of Missouri is the oldest land grant institution west of the Mississippi River and was established by the State of Missouri to fulfill a mission of teaching, research and service for the citizens of the state and for the nation.

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2. In its NPRM, the Commission proposes to create two classes of low power radio service which would operate in the existing FM radio band - a 1,000 watt primary service and a 100 watt secondary service. In addition, the Commission seeks comment as to whether it should establish a third "microradio" class of low power radio service that would operate on a secondary basis at a power of 1 to 10 watts. (The 1,000 watt and 100 watt proposals are hereinafter referred to as "LPFMs"). For the reasons set forth herein, the Curators submit that the Commission must first analyze the technical effect of such proposals upon existing radio services before adopting any changes. Furthermore, any such changes should be made very cautiously so as not to disrupt the public service rendered by existing noncommercial educational FM stations.

II. ARGUMENT

A. The Commission Has Not Weighed the Adverse Impact of its Proposal On Existing Noncommercial Educational FM Broadcasters

3. The Curators are concerned that the FCC proposal would negatively impact existing noncommercial educational FM stations such as those licensed to the University. These stations offer a training ground for students who wish to pursue a career in broadcasting. This training ground has given many young people, including many minorities and women, the experience to succeed in broadcasting. These stations also provide unique NPR programming and/or local public affairs programming that is designed to serve the problems, needs and interests of the communities they serve. This programming is provided on a noncommercial basis, funded through underwriting announcements and donations. Since the FCC's rules and policies on underwriting announcements impose stringent constraints on the types of announcements that can be run, noncommercial educational stations face budgetary problems

that are not faced by commercial radio stations. For example, the University stations must depend heavily on donations obtained from fund-raising activities which occur periodically throughout the year. The new services proposed by the Commission pose a unique threat to noncommercial educational stations such as the University's because they are very likely to air niche programming of the type broadcast by the University's stations. Whether these facilities operate commercially or noncommercially, they will take listeners and advertising revenues away from the University stations, particularly in smaller communities where the advertising dollars are limited. The Commission has not given any consideration to the effect that its proposals will have on the existing noncommercial educational framework. Ironically, noncommercial educational stations are supported by substantial federal and state investment, yet the Commission's proposals offer the spectre of adding stations that will impair these publicly supported facilities.

4. The Commission's proposals will have additional negative effects. Many noncommercial educational FM stations, including some of those licensed to The Curators, have existing FM translators which bring public broadcasting to small communities that would not otherwise have such programming. For instance, KBIA in Columbia has an FM translator serving Osage Beach, Missouri and KUMR in Rolla has an FM translator serving Lebanon, Missouri. Neither of these communities has its own noncommercial educational FM station. Under the FCC's proposal, KBIA and KUMR would have to discontinue operation of their translators if a new LPFM 1,000 watt facility was predicted to receive interference from one of these translators. That would result in the loss of a valuable and unique radio service in the communities of Osage Beach and Lebanon. Again, this is a result that the FCC has not

evaluated. The Curators submit that an existing FM translator should not be forced off the air by a new LPFM facility. Instead, existing FM translators, and particularly those licensed to educational institutions, should be grandfathered.

5. On May 19, 1999, the National Association of Radio Reading Services (“NARRS”) filed Comments in this proceeding which raise a major concern with the NPRM’s low power proposals. As NARRS noted, there are over a hundred and fifty reading services for the blind and visually impaired in the United States and most of these reading services use the sub-carriers of FM stations. Since sub-carriers are fragile signals, NARRS points out that “if the Commission allows LPFMs to begin operation on adjacent channels to the NARRS member service, major interference will occur and hundreds of listeners to that service will lose the ability to use the sub-carrier receivers loaned to them for free by the radio reading service.” (NARRS Comments, p.1). The Curators share the concern expressed by NARRS. Some of the University stations operate their sub-carrier channels to serve the print-handicapped and will be affected by interference from the LPFMs. The disabled who receive these services stand to be disenfranchised.

**A. The FCC’s Proposal Violates the Communications Act
Since It will Undermine Spectrum Integrity**

6. The FCC has not presented any studies which would establish that its LPFM proposals can be effectuated without impairing existing commercial and noncommercial radio services. Since other entities such as the National Association of Broadcasters and National Public Radio are in the process of conducting studies, no proposals should be adopted until there has been adequate opportunity for the Commission and members of the public to study the

results of the studies that are done. Indeed, reports indicate that the NAB's studies reflect that the low power stations will cause interference to existing stations and that few radio receivers will be able to filter out the interference.

7. Moreover, The Curators are concerned that the LPFM proposals will disrupt the transition to digital radio. Three companies, USA Digital Radio, Lucent Digital Radio and Digital Radio Express are presently working on the development of an In-Band, On-Channel ("IBOC") digital radio transmission standard that uses the existing AM and FM bands and is based on existing protection standards. They are participating in a CEMA/NAB sponsored test program, but the results will not be reported until later this year. The Commission should delay resolution of this proceeding until testing of the IBOC standard has occurred and the Commission has been able to assess the effect of its LPFM proposals on the IBOC standard.

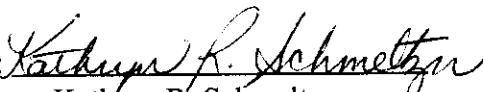
III. CONCLUSION

In sum, it is premature at this point for the Commission to adopt the LPFM proposals set forth in the NPRM. Further testing must be done and the Commission must carefully evaluate the impact of its proposals on the health of the station's noncommercial educational radio broadcast system and on the technical integrity of the existing FM radio service, including FM translators and FM subcarriers, and on the prospects for digital radio.

Respectfully submitted,

THE CURATORS OF THE
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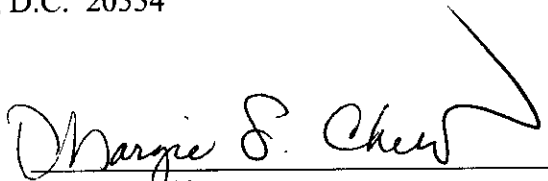
Dated: August 2, 1999

CERTIFICATE OF SERVICE

I, Margie Sutton Chew, a secretary in the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., do hereby certify that true copies of the foregoing **"COMMENTS OF THE CURATORS OF THE UNIVERSITY OF MISSOURI ON NOTICE OF PROPOSED RULE MAKING"** were sent this 2nd day of August 1999, by hand-delivery to the following:

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